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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/650,587

08/28/2003

Thomas P. Steele

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8015 7590 05/17/2006

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EXAMINER

POULOS, SANDRA K

ART UNIT

PAPER NUMBER

1714

DATE MAILED: 05/17/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/650,587	Applicant(s) STEELE ET AL.	
	Examiner Sandra K. Poulos	Art Unit 1714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 17 February 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date: _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date: _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. All outstanding objections are overcome by applicant's amendment filed February 17, 2006.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim Rejections - 35 USC § 102

2. Claims 1-2, 5, 7-9, 12, and 14-15 are rejected under 35 U.S.C. 102(b) as being anticipated by Hyan et al in US 6,221,115.

The rejection is adequately set forth in paragraph 7 of Office action mailed 8/18/05 and is incorporated herein by reference.

Claim Rejections - 35 USC § 103

3. Claims 3-4, 6, 10-11, and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hyan in view of Wood et al in US 6,489,383.

The rejection is adequately set forth in paragraph 9 of Office action mailed 8/18/05 and is incorporated herein by reference.

Response to Arguments

4. Applicant's arguments filed 2/17/06 have been fully considered but they are not persuasive.

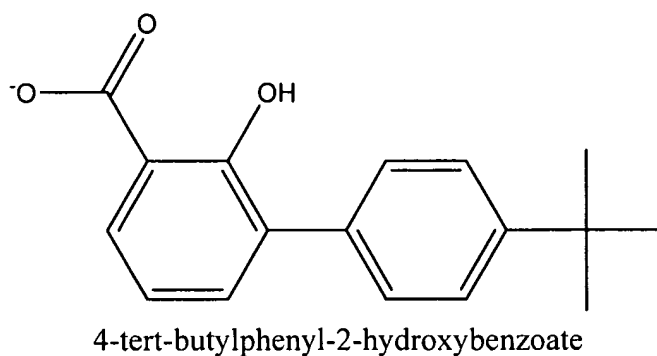
Specifically, applicants argue that:

- (a) Hyan fails to teach a hindered hydroxybenzoate.

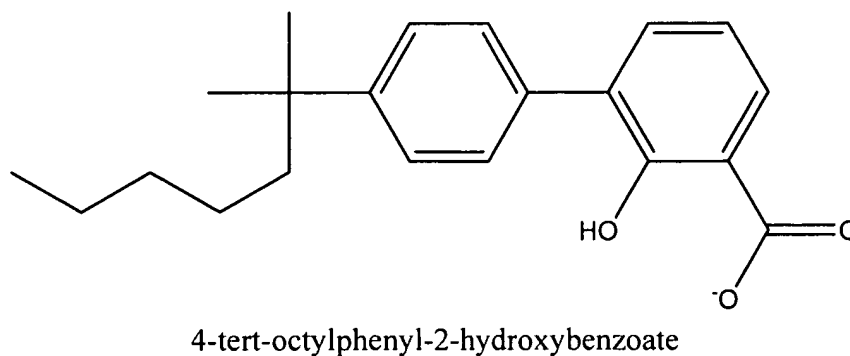
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- (b) The benzoate in the examples is taught as an example of a UV absorber, not something to be combined with a UV absorber.
- (c) Hyan provides a long list of possible UV absorbers.
- (d) Wood and Hyan are directed to compositions for stabilizing candle wax against fading rather than addressing premature fragrance release.

With respect to argument (a), Hyan discloses 4-tert-butylphenyl 2-hydroxybenzoate in Example 21, which would have the formula:



and discloses 4-tert-octyl 2-hydroxybenzoate in Example 40, which would have the formula:



It can be seen from the above formulae that the compounds in Examples 21 and 40 demonstrate the use of hindered hydroxybenzoates.

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With respect to argument (b), Examples 21 discloses 4-tert-butylphenyl 2-hydroxybenzoate (hindered hydroxybenzoate) in combination with 2,4-bis[(1-cyclohexyloxy-2,2,6,6-tetramethylpiperidin-4-yl) butylamino-6-]2-hydroxyethylamino-s-triazine (a UV absorber). Example 40 discloses 4-tert-octyl 2-hydroxybenzoate (hindered hydroxybenzoate) in combination with bis(1-(2-hydroxy-2-methylpropoxy)-2,2,6,6-tetramethylpiperidin-4-yl) sebacate (a UV absorber). Thus, Hyan teaches a combination of hindered hydroxybenzoate and UV absorber.

With respect to argument (c), Hyan does include numerous UV absorbers in his specification, however, since hindered hydroxybenzoate is specifically used in examples, there is anticipation for the use of those hindered hydroxybenzoates with UV absorber.

With respect to argument (d), that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., premature fragrance release) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). Thus the argument that Hyan and Wood do not address premature fragrance release are moot because the current claims are also silent with respect to premature fragrance release.

Conclusion

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO

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MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sandra K. Poulos whose telephone number is (571) 272-6428. The examiner can normally be reached on M-F 7:00-5:00 EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vasu Jagannathan can be reached on (571) 272-1119. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

SKP

Sandra K. Poulos

Vasu Jagannathan
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